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GOVERNMENT OF GOA

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GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

10/4/2016-LA

The National Institutes of Technology, Science Education and Research (Amendment) Act, 2016 (Central Act No. 42 of 2016), which has been passed by Parliament and assented to by the President on 09-08-2016 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 10-08-2016, is hereby published for the general information of the public.

Julio Barbosa Noronha, Under Secretary (Law).

Porvorim, 4th November, 2016.

THE NATIONAL INSTITUTES OF
TECHNOLOGY, SCIENCE EDUCATION
AND RESEARCH (AMENDMENT)
ACT, 2016

AN

ACT

further to amend the National Institutes of Technology, Science Education and Research Act, 2007.

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the National Institutes of Technology, Science Education and Research (Amendment) Act, 2016.

(2) It shall be deemed to have come into force on the 20th day of August, 2015.

2. *Amendment of First Schedule to Act 29 of 2007.*— In the First Schedule to the National Institutes of Technology, Science Education and Research Act, 2007, after serial number 30, the following serial number and the entries relating thereto shall be inserted, namely:—

(1)	(2)	(3)
"31.	National Institute of Technology, Andhra Pradesh	National Institute of Technology, Andhra Pradesh."

Notification

10/4/2016-LA

The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (Central Act No. 18 of 2016), which has been passed by Parliament and

assented to by the President on 25-03-2016 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 26-03-2016, is hereby published for the general information of the public.

Julio Barbosa Noronha, Under Secretary (Law).

Porvorim, 26th October, 2016.

**THE AADHAAR (TARGETED DELIVERY
OF FINANCIAL AND OTHER SUBSIDIES,
BENEFITS AND SERVICES)
ACT, 2016**

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**THE AADHAAR (TARGETED DELIVERY
OF FINANCIAL AND OTHER SUBSIDIES,
BENEFITS AND SERVICES) ACT, 2016**

AN

ACT

to provide for as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of

unique identity numbers to such individuals and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I**Preliminary**

1. *Short title, extent and commencement.*—
(1) This Act may be called the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir and save as otherwise provided in this Act, it shall also apply to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may, be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “Aadhaar number” means an identification number issued to an individual under sub-section (3) of section 3;

(b) “Aadhaar number holder” means an individual who has been issued an Aadhaar number under this Act;

(c) “authentication” means the process by which the Aadhaar number alongwith demographic information or biometric information of an individual is submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it;

(d) “authentication record” means the record of the time of authentication and identity of the requesting entity and the response provided by the Authority thereto;

(e) “Authority” means the Unique Identification Authority of India established under sub-section (1) of section 11;

(f) “benefit” means any advantage, gift, reward, relief, or payment, in cash or kind, provided to an individual or a group of individuals and includes such other benefits as may be notified by the Central Government;

(g) “biometric information” means photograph, finger print, Iris scan, or such other biological attributes of an individual as may be specified by regulations;

(h) “Central Identities Data Repository” means a centralised database in one or more locations containing all Aadhaar numbers issued to Aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(i) “Chairperson” means the Chairperson of the Authority appointed under section 12;

(j) “core biometric information” means finger print, Iris scan, or such other biological attribute of an individual as may be specified by regulations;

(k) “demographic information” includes information relating to the name, date of birth, address and other relevant information of an individual, as may be specified by regulations for the purpose of issuing an Aadhaar number, but shall not include race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history;

(l) “enrolling agency” means an agency appointed by the Authority or a Registrar,

as the case may be, for collecting demographic and biometric information of individuals under this Act;

(m) “enrolment” means the process, as may be specified by regulations, to collect demographic and biometric information from individuals by the enrolling agencies for the purpose of issuing Aadhaar numbers to such individuals under this Act;

(n) “identity information” in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information;

(o) “Member” includes the Chairperson and Member of the Authority appointed under section 12;

(p) “notification” means a notification published in the Official Gazette and the expression “notified” with its cognate meanings and grammatical variations shall be construed accordingly;

(q) “prescribed” means prescribed by rules made by the Central Government under this Act;

(r) “records of entitlement” means records of benefits, subsidies or services provided to, or availed by, any individual under any programme;

(s) “Registrar” means any entity authorised or recognised by the Authority for the purpose of enrolling individuals under this Act;

(t) “regulations” means the regulations made by the Authority under this Act;

(u) “requesting entity” means an agency or person that submits the Aadhaar number, and demographic information or biometric information, of an individual to the Central Identities Data Repository for authentication;

(v) “resident” means an individual who has resided in India for a period or periods

amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for enrolment;

(w) “service” means any provision, facility, utility or any other assistance provided in any form to an individual or a group of individuals and includes such other services as may be notified by the Central Government;

(x) “subsidy” means any form of aid, support, grant, subvention, or appropriation, in cash or kind, to an individual or a group of individuals and includes such other subsidies as may be notified by the Central Government.

CHAPTER II

Enrolment

3. *Aadhaar number.*— (1) Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment:

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number.

(2) The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely:—

(a) the manner in which the information shall be used;

(b) the nature of recipients with whom the information is intended to be shared during authentication; and

(c) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made.

(3) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after

verifying the information, in such manner as may be specified by regulations, issue an Aadhaar number to such individual.

4. *Properties of Aadhaar number.*— (1) An Aadhaar number, issued to an individual shall not be re-assigned to any other individual.

(2) An Aadhaar number shall be a random number and bear no relation to the attributes or identity of the Aadhaar number holder.

(3) An Aadhaar number, in physical or electronic form subject to authentication and other conditions, as may be specified by regulations, may be accepted as proof of identity of the Aadhaar number holder for any purpose.

Explanation.— For the purposes of this sub-section, the expression “electronic form” shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.

21 of 2000.

5. *Special measures for issuance of Aadhaar number to certain category of persons.*— The Authority shall take special measures to issue Aadhaar number to women, children, senior citizens, persons with disability, unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

6. *Update of certain information.*— The Authority may require Aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations, so as to ensure continued accuracy of their information in the Central Identities Data Repository.

CHAPTER III

Authentication

7. *Proof of Aadhaar number necessary for receipt of certain subsidies, benefits and services, etc.*— The Central Government or,

as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment:

Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service.

8. *Authentication of Aadhaar number.*— (1) The Authority shall perform authentication of the Aadhaar number of an Aadhaar number holder submitted by any requesting entity, in relation to his biometric information or demographic information, subject to such conditions and on payment of such fees and in such manner as may be specified by regulations.

(2) A requesting entity shall—

(a) unless otherwise provided in this Act, obtain the consent of an individual before collecting his identity information for the purposes of authentication in such manner as may be specified by regulations; and

(b) ensure that the identity information of an individual is only used for submission to the Central Identities Data Repository for authentication.

(3) A requesting entity shall inform, in such manner as may be specified by regulations, the individual submitting his identity information for authentication, the following details with respect to authentication, namely:—

(a) the nature of information that may be shared upon authentication;

(b) the uses to which the information received during authentication may be put by the requesting entity; and

(c) alternatives to submission of identity information to the requesting entity.

(4) The Authority shall respond to an authentication query with a positive, negative or any other appropriate response sharing such identity information excluding any core biometric information.

9. *Aadhaar number not evidence of citizenship or domicile, etc.*— The Aadhaar number or the authentication thereof shall not, by itself, confer any right of, or be proof of, citizenship or domicile in respect of an Aadhaar number holder.

10. *Central Identities Data Repository.*— The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.

CHAPTER IV

Unique Identification Authority of India

11. *Establishment of Authority.*— (1) The Central Government shall, by notification, establish an Authority to be known as the Unique Identification Authority of India to be responsible for the processes of enrolment and authentication and perform such other functions assigned to it under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in New Delhi.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.

12. *Composition of Authority.*— The Authority shall consist of a Chairperson, appointed on part-time or full-time basis, two part-time Members, and the chief executive

officer who shall be Member-Secretary of the Authority, to be appointed by the Central Government.

13. *Qualifications for appointment of Chairperson and Members of Authority.*— The Chairperson and Members of the Authority shall be persons of ability and integrity having experience and knowledge of at least ten years in matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.

14. *Term of office and other conditions of service of Chairperson and Members.*— (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for re-appointment;

Provided that no person shall hold office as the Chairperson or Member after he has attained the age of sixty-five years.

(2) The Chairperson and every Member shall, before entering office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 15.

(4) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed.

15. *Removal of Chairperson and Members.*— (1) The Central Government may remove from office, the Chairperson, or a Member, who—

(a) is, or at any time has been adjudged as insolvent;

(b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson or a Member shall not be removed under clause (b), clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard.

16. *Restrictions on Chairperson or Members on employment after cessation of office.*— The Chairperson or a Member on ceasing to hold office for any reason, shall not, without previous approval of the Central Government,—

(a) accept any employment in, or be connected with the management of any organisation, company or any other entity which has been associated with any work done or contracted out by the Authority, whether directly or indirectly, during his tenure as Chairperson or Member, as the case may be, for a period of three years from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or

provincial Act or a Government Company, as defined in clause (45) of section 2 of the Companies Act, 2013; 18 of 2013.

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; or

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office.

17. *Functions of Chairperson.*— The Chairperson shall preside over the meetings of the Authority, and without prejudice to any provision of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

18. *Chief executive officer.*— (1) There shall be a chief executive officer of the Authority, not below the rank of Additional Secretary to the Government of India, to be appointed by the Central Government.

(2) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

(a) the day-to-day administration of the Authority;

(b) implementing the work programmes and decisions adopted by the Authority;

(c) drawing up of proposal for the Authority's decisions and work programmes;

(d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; and

(e) performing such other functions, or exercising such other powers, as may be specified by regulations.

(3) Every year, the chief executive officer shall submit to the Authority for approval—

(a) a general report covering all the activities of the Authority in the previous year;

(b) programmes of work;

(c) the annual accounts for the previous year; and

(d) the budget for the coming year.

(4) The chief executive officer shall have administrative control over the officers and other employees of the Authority.

19. *Meetings of Authority.*— (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including quorum at such meetings, as may be specified by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence the presiding Member shall have a casting vote.

(4) All decisions of the Authority shall be signed by the Chairperson or any other Member or the Member-Secretary authorised by the Authority in this behalf.

(5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any

manner coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

20. *Vacancies etc., not to invalidate proceedings of Authority.*— No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority;

(b) any defect in the appointment of a person as Chairperson or Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

21. *Officers and other employees of Authority.*— (1) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Authority in the discharge of its functions.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government.

22. *Transfer of assets, liabilities of Authority.*— On and from the establishment of the Authority—

(a) all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin. I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority.

Explanation.— The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the said Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued or may be instituted by or against the Authority.

23. *Powers and functions of Authority.*—

(1) The Authority shall develop the policy, procedure and systems for issuing Aadhaar numbers to individuals and perform authentication thereof under this Act.

(2) Without prejudice to sub-section (1), the powers and functions of the Authority, *inter alia*, include—

(a) specifying, by regulations, demographic information and biometric information required for enrolment and the processes for collection and verification thereof;

(b) collecting demographic information and biometric information from any individual seeking an Aadhaar number in such manner as may be specified by regulations;

(c) appointing of one or more entities to operate the Central Identities Data Repository;

(d) generating and assigning Aadhaar numbers to individuals;

(e) performing authentication of Aadhaar numbers;

(f) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(g) omitting and deactivating of an Aadhaar number and information relating thereto in such manner as may be specified by regulations;

(h) specifying the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used;

(i) specifying, by regulations, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;

(j) establishing, operating and maintaining of the Central Identities Data Repository;

(k) sharing, in such manner as may be specified by regulations, the information of Aadhaar number holders, subject to the provisions of this Act;

(l) calling for information and records, conducting inspections, inquiries and audit

of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act;

(m) specifying, by regulations, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulations, the conditions and procedures for issuance of new Aadhaar number to existing Aadhaar number holder;

(o) levying and collecting the fees or authorising the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appointing such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promoting research and development for advancement in biometrics and related areas, including usage of Aadhaar numbers through appropriate mechanisms;

(r) evolving of, and specifying, by regulations, policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanism for redressal of grievances of individuals, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories

or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or delivery of Aadhaar numbers to individuals or performing authentication;

(b) by notification, appoint such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto,

as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by contract.

CHAPTER V

Grants, Accounts and Audit and Annual Report

24. *Grants by Central Government.*— The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

25. *Other fees and revenues.*— The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India.

26. *Accounts and audit.*— (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure

incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

27. *Returns and annual report, etc.*— (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving—

(a) a description of all the activities of the Authority for the previous years;

(b) the annual accounts for the previous year; and

(c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

Protection of information

28. Security and confidentiality of information.— (1) The Authority shall ensure the security of identity information and authentication records of individuals.

(2) Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.

(3) The Authority shall take all necessary measures to ensure that the information in the possession or control of the Authority, including information stored in the Central Identities Data Repository, is secured and protected against access, use or disclosure not permitted under this Act or regulations made thereunder, and against accidental or intentional destruction, loss or damage.

(4) Without prejudice to sub-sections (1) and (2) the Authority shall—

(a) adopt and implement appropriate technical and organisational security measures;

(b) ensure that the agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act, have in place appropriate technical and organisational security measures for the information; and

(c) ensure that the agreements or arrangements entered into with such agencies, consultants, advisors or other persons, impose obligations equivalent to those imposed on the Authority under this Act, and require such agencies, consultants, advisors and other persons to act only on instructions from the Authority.

(5) Notwithstanding anything contained in any other law for the time being in force,

and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone:

Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations.

29. Restriction on sharing information.— (1) No core biometric information, collected or created under this Act, shall be—

(a) shared with anyone for any reason whatsoever; or

(b) used for any purpose other than generation of Aadhaar numbers and authentication under this Act.

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

(3) No identity information available with a requesting entity shall be—

(a) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; or

(b) disclosed further, except with the prior consent of the individual to whom such information relates.

(4) No Aadhaar number or core biometric information collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations.

30. Biometric information deemed to be sensitive personal information.— The biometric infor-

mation collected and stored in electronic form, in accordance with this Act and regulations made thereunder, shall be deemed to be “electronic record” and “sensitive personal data or information”, and the provisions contained in the Information Technology Act, 2000 ^{21 of 2000.} and the rules made thereunder shall apply to such information, in addition to, and to the extent not in derogation of the provisions of this Act.

Explanation.— For the purposes of this section, the expressions—

(a) “electronic form” shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000; ^{21 of 2000.}

(b) “electronic record” shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000; ^{21 of 2000.}

(c) “sensitive personal data or information” shall have the same meaning as assigned to it in clause (iii) of the *Explanation* to section 43A of the Information Technology Act, 2000. ^{21 of 2000.}

31. *Alteration of demographic information or biometric information.*— (1) In case any demographic information of an Aadhaar number holder is found incorrect or changes subsequently, the Aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(2) In case any biometric information of Aadhaar number holder is lost or changes subsequently for any reason, the Aadhaar number holder shall request the Authority to

make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such Aadhaar number holder and intimate such alteration to the concerned Aadhaar number holder.

(4) No identity information in the Central Identities Data Repository shall be altered except in the manner provided in this Act or regulations made in this behalf.

32. *Access to own information and records of requests for authentication.*— (1) The Authority shall maintain authentication records in such manner and for such period as may be specified by regulations.

(2) Every Aadhaar number holder shall be entitled to obtain his authentication record in such manner as may be specified by regulations.

(3) The Authority shall not, either by itself or through any entity under its control, collect, keep or maintain any information about the purpose of authentication.

33. *Disclosure of information in certain cases.*— (1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or sub-section (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a District Judge:

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority.

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made in the interest of national security in

pursuance of a direction of an officer not below the rank of Joint Secretary to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee.

CHAPTER VII

Offences and Penalties

34. *Penalty for impersonation at time of enrolment.*— Whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

35. *Penalty for impersonation of Aadhaar number holder by changing demographic information or biometric information.*— Whoever, with the intention of causing harm or mischief to an Aadhaar number holder, or with the intention of appropriating the identity of an Aadhaar number holder changes or attempts to change any demographic information or biometric information of an Aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to ten thousand rupees.

36. *Penalty for impersonation.*— Whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

37. *Penalty for disclosing identity information.*— Whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act or regulations made there under or in contravention of any agreement or arrangement entered into pursuant to the provisions of this Act, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

38. *Penalty for unauthorised access to the Central Identities Data Repository.*— Whoever, not being authorised by the Authority, intentionally,—

(a) accesses or secures access to the Central Identities Data Repository;

(b) downloads, copies or extracts any data from the Central Identities Data Repository or stored in any removable storage medium;

(c) introduces or causes to be introduced any virus or other computer contaminant in the Central Identities Data Repository;

(d) damages or causes to be damaged the data in the Central Identities Data Repository;

(e) disrupts or causes disruption of the access to the Central Identities Data Repository;

(f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository;

(g) reveals any information in contravention of sub-section (5) of section 28, or shares, uses or displays information in contravention of section 29 or assists any person in any of the aforementioned acts;

(h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or affects it injuriously by any means; or

(i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage,

shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which shall not be less than ten lakh rupees.

Explanation.— For the purposes of this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them in the *Explanation* to section 43 of the Information Technology Act, 2000, and the expression “computer source code” shall have the meaning assigned to it in the *Explanation* to section 65 of the said Act.

39. Penalty for tampering with data in Central Identities Data Repository.— Whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to Aadhaar number holder or discovering any information thereof, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to ten thousand rupees.

40. Penalty for unauthorised use by requesting entity.— Whoever, being a requesting entity, uses the identity information of an individual in contravention of sub-section (3) of section 8, shall be punishable with imprisonment which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

41. Penalty for non-compliance with intimation requirements.— Whoever, being an enrolling agency or a requesting entity, fails to comply with the requirements of sub-section (2) of section 3 or sub-section (3) of section 8, shall be punishable with imprisonment which may extend to one year or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

42. General penalty.— Whoever commits an offence under this Act or any rules or regulations made thereunder for which no specific penalty is provided elsewhere than this section, shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees, or with both.

43. Offences by companies.— (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly,

Explanation.— For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

44. *Act to apply for offence or contravention committed outside India.*— (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves any data in the Central Identities Data Repository.

45. *Power to investigate offences.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act. 2 of 1974.

46. *Penalties not to interfere with other punishments.*— No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

47. *Cognizance of offences.*— (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VIII

Miscellaneous

48. *Power of Central Government to supersede Authority.*— (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that a public emergency exists,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1), superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

49. *Members, officers, etc., to be public servants.*— The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

50. *Power of Central Government to issue directions.*— (1) Without prejudice to the foregoing provisions of this Act, the Authority

shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, as the Central Government may give, in writing to it, from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section:

Provided further that nothing in this section shall empower the Central Government to issue directions pertaining to technical or administrative matters undertaken by the Authority.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

51. *Delegation.*— The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 54) as it may deem necessary.

52. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rule or regulation made thereunder.

53. *Power of Central Government to make rules.*— (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-section (2) of section 14;

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (4) of section 14;

(c) the other powers and functions of the Chairperson of the Authority under section 17;

(d) the other powers and functions of the Authority under clause (t) of sub-section (2) of section 23;

(e) the form of annual statement of accounts to be prepared by Authority under sub-section (1) of section 26;

(f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;

(g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;

(h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

54. *Power of Authority to make regulations.*— (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the biometric information under clause (g) and the demographic information under clause (k), and the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (m) of section 2;

(b) the manner of verifying the demographic information and biometric information for issue of Aadhaar number under sub-section (3) of section 3;

(c) the conditions for accepting an Aadhaar number as proof of identity of the Aadhaar number holder under sub-section (3) of section 4;

(d) the other categories of individuals under section 5 for whom the Authority shall take special measures for allotment of Aadhaar number;

(e) the manner of updating biometric information and demographic information under section 6;

(f) the procedure for authentication of the Aadhaar number under section 8;

(g) the other functions to be performed by the Central Identities Data Repository under section 10;

(h) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it, including the quorum, under sub-section (1) of section 19;

(i) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (2) of section 21;

(j) the demographic information and biometric information under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

(k) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(l) the manner of omitting and deactivating an Aadhaar number and information relating thereto under clause (g) of sub-section (2) of section 23;

(m) the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used under clause (h) of sub-section (2) of section 23;

(n) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

(o) the manner of sharing information of Aadhaar number holder under clause (k) of sub-section (2) of section 23;

(p) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(q) the procedure for issuance of new Aadhaar number to existing Aadhaar number holder under clause (n) of sub-section (2) of section 23;

(r) manner of authorising Registrars, enrolling agencies or other service providers to collect such fees for services provided by them under clause (o) of sub-section (2) of section 23;

(s) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

(t) the manner of accessing the identity information by the Aadhaar number holder under the proviso to sub-section (5) of section 28;

(u) the manner of sharing the identity information, other than core biometric information, collected or created under this Act under sub-section (2) of section 29;

(v) the manner or alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(w) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1), and the manner of obtaining, by the Aadhaar number holder, the authentication records under sub-section (2) of section 32;

(x) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

55. *Laying of rules and regulations before Parliament.*— Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both the Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

56. *Application of other laws not barred.*— The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

57. *Act not to prevent use of Aadhaar number for other purposes under law.*— Nothing contained in this Act shall prevent the use of Aadhaar number for establishing the identity of an individual for any purpose, whether by the State or any body corporate or person, pursuant to any law, for the time being in force, or any contract to this effect:

Provided that the use of Aadhaar number under this section shall be subject to the procedure and obligations under section 8 and Chapter VI.

58. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

59. *Savings.*— Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin. I, dated the 28th January, 2009, or by the Department of Electronics and Information Technology under the Cabinet Secretariat Notification bearing notification number S. O. 2492(E), dated the 12th September, 2015, as the case may be, shall be deemed to have been validly done or taken under this Act.

Notification

10/4/2016-LA

The Bureau of Indian Standards Act, 2016 (Central Act No. 11 of 2016), which has been passed by Parliament and assented to by the President on 21-03-2016 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 22-03-2016, is hereby published for the general information of the public.

Julio Barbosa Noronha, Under Secretary (Law).

Porvorim, 26th October, 2016.

THE BUREAU OF INDIAN STANDARDS ACT, 2016

Arrangement of Sections

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THE BUREAU OF INDIAN STANDARDS
ACT, 2016

AN

ACT

to provide for the establishment of a national standards body for the harmonious development of the activities of standardisation, conformity assessment and quality assurance of goods, articles, processes, systems and services and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—

(1) This Act may be called the Bureau of Indian Standards Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(1) “article” means any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured or handmade within India or imported into India;

(2) “assaying and hallmarking centre” means a testing and marking centre recognised by the Bureau to determine the purity of precious metal articles and to apply hallmark on the precious metal articles in a manner as may be determined by regulations;

(3) “Bureau” means the Bureau of Indian Standards established under section 3;

(4) “certification officer” means a certification officer appointed under sub-section (1) of section 27;

(5) “certified body” means a holder of certificate of conformity or licence under sub-section (2) of section 13 in relation to any goods, article, process, system or service which conforms to a standard;

(6) “certified jeweller” means a jeweller who has been granted a certificate by the Bureau to get manufactured for sale or to sell any precious metal article after getting the same hallmarked in a manner as may be determined by regulations;

(7) “conformity assessment” means demonstration that requirements as may be specified relating to an article, process, system, service, person or body are fulfilled;

(8) “conformity assessment scheme” means a scheme relating to such goods, article, process, system or service as may be notified by the Bureau under section 12;

(9) “consumer” means a person as defined in the Consumer Protection Act, 1986; 68 of 1986.

(10) “covering” includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper, bag, sack, pouch or other container;

(11) “Director General” means the Director General appointed under sub-section (1) of section 7;

(12) “Executive Committee” means the Executive Committee constituted under sub-section (1) of section 4;

(13) “fund” means the fund constituted under section 20;

(14) “goods” includes all kinds of movable properties under the Sale of Goods Act, 1930, other than actionable claims, money, stocks and shares; 3 of 1930.

(15) “Governing Council” means a Governing Council constituted under sub-section (3) of section 3;

(16) “Hallmark” means in relation to precious metal article, the Standard Mark, which indicates the proportionate content of precious metal in that article as per the relevant Indian Standard;

(17) “Indian Standard” means the standard including any tentative or provisional standard established and published by the Bureau, in relation to any goods, article, process, system or service, indicative of the quality and specification of such goods, article, process, system or service and includes—

(i) any standard adopted by the Bureau under sub-section (2) of section 10; and

(ii) any standard established and published, or recognised, by the Bureau of Indian Standards established under the Bureau of Indian Standard Act, 1986, which was in force 63 of 1986.

immediately before the commencement of this Act;

(18) “Indian Standards Institution” means the Indian Standards Institution registered under the Societies Registration Act, 1860; 21 of 1860.

(19) “jeweller” means a person engaged in the business to get manufactured precious metal article for sale or to sell precious metal articles;

(20) “licence” means a licence granted under section 13 to use a specified Standard Mark in relation to any goods, article, process, system or service, which conforms to a standard;

(21) “manufacturer” means a person responsible for designing and manufacturing any goods or article;

(22) “mark” includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

(23) “member” means a member of the Governing Council, Executive Committee or any of the Advisory Committee;

(24) “notification” means a notification published in the Official Gazette and the expression “notify” or “notified” shall be construed accordingly;

(25) “person” means a manufacturer, an importer, a distributor, retailer, seller or lessor of goods or article or provider of service or any other person who uses or applies his name or trade mark or any other distinctive mark on to goods or article or while providing a service, for any consideration or gives goods or article or provides service as prize or gift for commercial purposes including their representative and any person who is engaged in such activities, where the manufacturer, importer, distributor, retailer, seller, lessor or provider of service cannot be identified;

(26) “precious metal” means gold, silver, platinum and palladium;

(27) “precious metal article” means any article made entirely or in part from precious metals or their alloys;

(28) “prescribed” means prescribed by rules made under this Act;

(29) “process” means a set of inter-related or interacting activities, which transforms inputs into outputs;

(30) “recognised testing and marking centre” means a testing and marking center recognised by the Bureau under sub-section (5) of section 14;

(31) “recognised testing laboratory” means a testing laboratory recognised by the Bureau under sub-section (4) of section 13;

(32) “registering authority” means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;

(33) “regulations” means regulations made by the Bureau under this Act;

(34) “sale” means to sell, distribute, hire, lease or exchange of goods, article, process, system or service for any consideration or for commercial purposes;

(35) “seller” means a person who is engaged in the sale of any goods, article, process, system or service;

(36) “service” means the result generated by activities at the interface between an organisation and a customer and by organisation’s internal activities, to meet customer requirements;

(37) “specification” means a description of goods, article, process, system or service as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or processing, consistency and reliability of service delivery or other characteristics to

distinguish it from any other goods, article, process, system or service;

(38) “specified” means specified by the regulations;

(39) “standards” means documented agreements containing technical specification or other precise criteria to be used consistently as rules, guidelines, or definitions of characteristics, to ensure that goods, articles, processes, systems and services are fit for their purpose;

(40) “Standard Mark” means the mark specified by the Bureau, and includes Hallmark, to represent conformity of goods, article, process, system or service to a particular Indian Standard or conformity to a standard, the mark of which has been established, adopted or recognised by the Bureau and is marked on the article or goods as a Standard Mark or on its covering or label attached to such goods or article so marked;

(41) “system” means a set of inter-related or interacting elements;

(42) “testing laboratory” means a body set up for the purpose of testing of goods or article against a set of requirements and report its findings;

(43) “trade mark” means a mark used or proposed to be used in relation to goods or article or process or system or service for the purpose of indicating, or so as to indicate, a connection in the course of trade of goods, article, process, system or service, as the case may be, and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person.

CHAPTER II

Bureau of Indian Standards

3. *Establishment of Bureau and Constitution of Governing Council.*— (1) With effect from such date as the Central Government

may, by notification in the Official Gazette, appoint in this behalf, there shall be established a national body for the purposes of this Act, a Bureau, to be called the Bureau of Indian Standards.

(2) The Bureau shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The members of the Governing Council shall constitute the Bureau and general superintendence, direction and management of the affairs of the Bureau shall vest in the Governing Council, which shall consist of the following members, namely:—

(a) the Minister in-charge of the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex officio* President of the Bureau;

(b) the Minister of State or a Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex officio* Vice-President of the Bureau, and where there is no such Minister of State or Deputy Minister, such person as may be nominated by the Central Government to be the Vice-President of the Bureau.

(c) the Secretary to the Government of India of the Ministry or Department of the Central Government having administrative control of the Bureau, *ex officio*;

(d) the Director General of the Bureau, *ex officio*;

(e) such number of other persons to represent the Government, industry, scientific and research institutions, consumers and other interests, as may be prescribed, to be appointed by the Central Government.

(4) The term of office of the members referred to in clause (e) of sub-section (3) and

the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by the members, shall be such as may be prescribed:

Provided that a member, other than an *ex officio* member of the Bureau of Indian Standards constituted under the Bureau of Indian Standards Act, 1986, shall, ^{63 of 1986.} after the commencement of this Act, continue to hold such office as member till the completion of his term.

(5) The Governing Council may associate with itself, in such manner and for such purposes as may be prescribed, any person whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Governing Council relevant to the purposes for which he has been associated but shall not have the right to vote.

(6) The Governing Council may, by general or special order in writing, delegate to any member, the Director General or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act except the powers under section 37 as it may deem necessary.

4. *Executive Committee of Bureau.*— (1) The Governing Council may, with the prior approval of the Central Government, by notification in the Official Gazette, constitute an Executive Committee which shall consist of the following members, namely:—

(a) Director General of the Bureau, who shall be its *ex officio* Chairman; and

(b) such number of members, as may be prescribed.

(2) The Executive Committee constituted under sub-section (1) shall perform, exercise and discharge such functions, powers and duties of the Bureau, as may be delegated to it by the Governing Council.

5. *Advisory Committees of Bureau.*— (1) Subject to any regulations made in this behalf, the Governing Council may, from time to time and as and when it is considered necessary, constitute the following Advisory Committees for the efficient discharge of the functions of the Bureau, namely:—

- (a) Finance Advisory Committee;
- (b) Conformity Assessment Advisory Committee;
- (c) Standards Advisory Committee;
- (d) Testing and Calibration Advisory Committee; and
- (e) such number of other committees as may be specified by regulations.

(2) Each Advisory Committee shall consist of a Chairman and such other members as may be specified by regulations.

6. *Vacancies, etc., not to invalidate act or proceedings.*— No act or proceedings of the Governing Council, under section 3 shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of the Governing Council; or
- (b) any defect in the appointment of a person acting as a member of the Governing Council; or
- (c) any irregularity in the procedure of the Governing Council not affecting the merits of the case.

7. *Director General.*— (1) The Central Government shall appoint a Director General of the Bureau.

(2) The terms and conditions of service of the Director General of the Bureau shall be such as may be prescribed.

(3) Subject to the general superintendence and control of the Governing Council, the Director General of the Bureau shall be the Chief Executive Authority of the Bureau.

(4) The Director General of the Bureau shall exercise and discharge such of the powers and duties of the Bureau as may be specified by regulations.

(5) The Director General may, by general or special order in writing, delegate to any officer of the Bureau subject to such conditions, if any, as may be specified in the order, such of his powers and functions as are assigned to him under the regulations or are delegated to him by the Governing Council, as he may deem necessary.

8. *Officers and employees of Bureau.*— (1) The Bureau may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of officers and employees of the Bureau appointed under sub-section (1) shall be such as may be specified by regulations.

9. *Powers and functions of Bureau.*— (1) The powers and duties as may be assigned to the Bureau under this Act shall be exercised and performed by the Governing Council and, in particular, such powers may include the power to—

- (a) establish branches, offices or agencies in India or outside;
- (b) recognise, on reciprocal basis or otherwise, with the prior approval of the Central Government, the mark of any international body or institution, on such terms and conditions as may be mutually agreed upon by the Bureau in relation to any goods, article, process, system or service at par with the Standard Mark for such goods, article, process, system or service;

(c) seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country or with any international organisation;

(d) enter into and search places, premises or vehicles, and inspect and seize goods or articles and documents to enforce the provisions of this Act;

(e) provide services to manufacturers and consumers of goods or articles or processes for compliances of standards on such terms and conditions as may be mutually agreed upon;

(f) provide training services in relation to quality management, standards, conformity assessment, laboratory testing and calibration, and any other related areas;

(g) publish Indian Standards and sell such publication and publications of international bodies;

(h) authorise agencies in India or outside India for carrying out any or all activities of the Bureau and such other purposes as may be necessary on such terms and conditions as it deems fit;

(i) obtain membership in regional, international and foreign bodies having objects similar to that of the Bureau and participate in international standards setting process;

(j) undertake testing of samples for purposes other than for conformity assessment; and

(k) undertake activities relating to legal metrology.

(2) The Bureau shall take all necessary steps for promotion, monitoring and management of the quality of goods, articles, processes, systems and services, as may be necessary, to protect the interests of consumers and various other stake holders which may include the following namely:—

(a) carrying out market surveillance or survey of any goods, article, process, system or service to monitor their quality and publish findings of such surveillance or surveys;

(b) promotion of quality in connection with any goods, article, process, system or service by creating awareness among the consumers and the industry and educate them about quality and standards in

connection with any goods, article, process, system and service;

(c) promotion of safety in connection with any goods, article, process, system or service;

(d) identification of any goods, articles, process, system or service for which there is a need to establish a new Indian Standard, or to revise an existing Indian Standard;

(e) promoting the use of Indian Standards;

(f) recognising or accrediting any institution in India or outside which is engaged in conformity certification and inspection of any goods, article, process, system or service or of testing laboratories;

(g) co-ordination and promotion of activities of any association of manufacturers or consumers or any other body in relation to improvement in the quality or in the implementation of any quality assurance activities in relation to any goods, article, process, system or service; and

(h) such other functions as may be necessary for promotion, monitoring and management of the quality of goods, articles, processes, systems and services and to protect the interests of consumers and other stake holders.

(3) The Bureau shall perform its functions under this section through the Governing Council in accordance with the direction and subject to such rules as may be made by the Central Government.

CHAPTER III

Indian Standards, Certification and Licence

10. *Indian Standards*.— (1) The standards established by the Bureau shall be the Indian Standards.

(2) The Bureau may—

(a) establish, publish, review and promote the Indian Standard, in relation to

any goods, article, process, system or service in such manner as may be prescribed;

(b) adopt as Indian Standard, any standard, established by any other Institution in India or elsewhere, in relation to any goods, article, process, system or service in such manner as may be prescribed;

(c) recognise or accredit any institution in India or outside which is engaged in standardisation;

(d) undertake, support and promote such research as may be necessary for formulation of Indian Standards.

(3) The Bureau, for the purpose of this section, shall constitute, as and when considered necessary, such number of technical committees of experts for the formulation of standards in respect of goods, articles, processes, systems or services, may be necessary.

(4) The Indian Standard shall be notified and remain valid till withdrawn by the Bureau.

(5) Notwithstanding anything contained in any other law, the copyright in an Indian Standard or any other publication of the Bureau shall vest in the Bureau.

11. *Prohibition to publish, reproduce or record without authorisation by Bureau.*— (1) No individual shall, without the authorisation of the Bureau, in any manner or form, publish, reproduce or record any Indian Standard or part thereof, or any other publication of the Bureau.

(2) No person shall issue a document that creates, or may create the impression that it is or contains an Indian Standard, as contemplated in this Act:

Provided that nothing in this sub-section shall prevent any individual from making a copy of Indian Standard for his personal use.

12. *Conformity Assessment scheme.*— (1) The Bureau may notify a specific or different conformity assessment scheme for any goods, article, process, system or service or for a group of goods, articles, processes, systems or services, as the case may be, with respect to any Indian Standard or any other standard in a manner as may be specified by regulations.

(2) The Bureau may establish a Standard Mark in relation to each of its conformity assessment schemes, which shall be of such design and contain such particulars as may be specified by regulations to represent a particular standard.

13. *Grant of licence or certificate of conformity.*— (1) A person may apply for grant of licence or certificate of conformity, as the case may be, if the goods, article, process, system or service conforms to an Indian Standard.

(2) Where any goods, article, process, system or service conforms to a standard, the Director General may, by an order, grant—

(a) a certificate of conformity in a manner as may be specified by regulations; or

(b) a licence to use or apply a Standard Mark in a manner as may be specified by regulations,

subject to such conditions and on payment of such fees, including late fee or fine, before or during the operation of the certificate of conformity or licence, and as determined by regulations.

(3) While granting a certificate of conformity or licence to use a Standard Mark, the Bureau may, by order, specify the marking and labelling requirements that shall necessarily be affixed as may be specified from time to time.

(4) The Bureau may establish, maintain or recognise testing laboratories for the purposes of conformity assessment and quality assurance and for such other purposes as may be required for carrying out its functions.

14. *Certification of Standard Mark of jewellers and sellers of certain specified goods or articles.*— (1) The Central Government, after consulting the Bureau, may notify precious metal articles or other goods or articles as it may consider necessary, to be marked with a Hallmark or Standard Mark, as the case may be, in a manner as specified in sub-section (2).

(2) The goods or articles notified in sub-section (1) may be sold through retail outlets certified by the Bureau after such goods or articles have been assessed for conformity to the relevant standard by testing and marking centre, recognised by the Bureau and marked with Hallmark or Standard Mark, as the case may be, as specified by regulations.

(3) The Central Government may, after consulting the Bureau, by an order published in the Official Gazette, make it compulsory for the sellers of goods or article notified under sub-section (1) to be sold only through certified sales outlets fulfilling such conditions as may be determined by regulations.

(4) The Bureau may, by an order, grant, renew, suspend or cancel certification of Standard Mark or Hallmark of a jeweller or any other seller for sale of goods or articles notified under sub-section (1) in such manner as may be determined by regulations.

(5) The Bureau may establish, maintain and recognise testing and marking centres, including assaying and hallmarking centres, for conformity assessment and application of Standard Mark, including Hallmark, on goods or articles notified under sub-section (1), in a manner as may be specified by regulations.

(6) No testing and marking centre or assaying and hallmarking centre, other than the recognised by the Bureau, shall with respect to goods or articles notified under sub-section (1), use, affix, emboss, engrave, print or apply in any manner the Standard Mark, including the Hallmark, or colourable imitation thereof, on any goods or article; and make any claim in relation to the use and application of a Standard Mark, including the

Hallmark, through Advertisements, sales promotion leaflets, price lists or the like.

(7) Every recognised testing and marking centre, including assaying and hallmarking centre, shall use or apply Standard Mark on good or articles notified under sub-section (1), including Hallmark on precious metal articles, after accurately determining the conformity of the same in a manner as may be specified.

(8) No recognised testing and marking center, including assaying and hallmarking centre, shall, notwithstanding that it has been recognised under sub-section (5), use or apply in relation to any goods or article notified under sub-section (1) a Standard Mark, including Hallmark, or any colourable imitation thereof, unless such goods or article conforms to the relevant standard.

15. *Prohibition to import, sell, exhibit, etc.*— (1) No person shall import, distribute, sell, store or exhibit for sale, any goods or article under sub-section (1) of section 14, except under certification from the Bureau.

(2) No person, other than that certified by the Bureau, shall sell or display or offer to sell goods or articles that are notified under sub-section (3) of section 14 and marked with the Standard Mark, including Hallmark and claim in relation to the Standard Mark, including Hallmark, through advertisements, sales promotion leaflets, price lists or the like.

(3) No certified jeweller or seller shall sell or display or offer to sell any notified goods or articles, notwithstanding that he has been granted certification, with the Standard Mark, including Hallmark, or any colourable imitation thereof, unless such goods or article is marked with a Standard Mark or Hallmark, in a manner as may be specified by regulations, and unless such goods or article conforms to the relevant standard.

16. *Central Government to direct compulsory use of Standard Mark.*— (1) If the Central Government is of the opinion that it is necessary or expedient so to do in the public interest or for the protection of human,

animal or plant health, safety of the environment, or prevention of unfair trade practices, or national security, it may, after consulting the Bureau, by an order published in the Official Gazette, notify—

(a) goods or article of any scheduled industry, process, system or service; or

(b) essential requirements to which such goods, article, process, system or service,

which shall conform to a standard and direct the use of the Standard Mark under a licence or certificate of conformity as compulsory on such goods, article, process, system or service.

Explanation.— For the purpose of this sub-section,—

(i) the expression “scheduled industry” shall have the meaning assigned to it in the Industries (Development and Regulation) Act, 1951; 65 of 1951.

(ii) it is hereby clarified that essential requirements are requirements, expressed in terms of the parameters to be achieved or requirements of standard in technical terms that effectively ensure that any goods, article, process, system or service meet the objective of health, safety and environment.

(2) The Central Government may, by an order authorise Bureau or any other agency having necessary accreditation or recognition and valid approval to certify and enforce conformity to the relevant standard or prescribed essential requirements under sub-section (1).

17. Prohibition to manufacture, sell, etc., certain goods without Standard Mark.— (1) No person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of section 16—

(a) without a Standard Mark, except under a valid licence; or

(b) notwithstanding that he has been granted a licence, apply a Standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.

(2) No person shall make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his goods, article, process, system or service conforms to an Indian Standard or make such a declaration on the goods or article, without having a valid certificate of conformity or licence from the Bureau or any other authority approved by the Central Government under sub-section (2) of section 16.

(3) No person shall use or apply or purport to use or apply in any manner, in the manufacture, distribution, sale, hire, lease or exhibit or offer for sale of any goods, article, process, system or service, or in the title of any patent or in any trade mark or design, a Standard Mark or any colourable imitation thereof, except under a valid licence from the Bureau.

18. Obligations of licence holder, seller, etc.— (1) The licence holder shall, at all times, remain responsible for conformance of the goods, articles, processes, systems or services carrying the Standard Mark.

(2) It shall be the responsibility of the distributor or the seller, as the case may be, to ensure that goods, articles, processes, systems or services carrying the Standard Mark are purchased from certified body or licence holder.

(3) It shall be the responsibility of the seller before the goods or article is sold or offered to be sold or exhibited or offered for sale to ensure that—

(a) goods, articles, processes, systems or services carrying the Standard Mark bear the requisite labels and marking details, as specified by the Bureau from time to time;

(b) the marking and labelling requirements on the product or covering

is displayed in a manner that has been specified by the Bureau.

(4) Every certified body or licence holder shall supply to the Bureau with such information and with such samples of any material or substance used in relation to any goods, article, process, system or service, as the case may be, as the Bureau may require for monitoring its quality and for the recovery of the fee as may be prescribed in the certificate of conformity or the licence.

(5) (a) The Bureau may make such inspection and take such samples of any material or substances as may be necessary to see whether any goods, article, process, system or service, in relation to which a Standard Mark has been used, conforms to the requirements of the relevant standard or whether the Standard Mark has been properly used in relation to any goods, article, process, system or service with or without a licence.

(b) The Bureau may publicise the results of its findings and the directions given in pursuance thereof.

(6) If the Bureau is satisfied under the provisions of sub-sections (4) and (5) that the goods, articles, processes, systems or services in relation to which a Standard Mark has been used do not conform to the requirements of the relevant standard, the Bureau may direct the certified body or licence holder or his representative to stop the supply and sale of non-conforming goods or articles and recall the non-conforming goods or articles that have already been supplied or offered for sale and bear such mark from the market or any such place from where they are likely to be offered for sale or prohibit to provide the service.

(7) Where a certified body or licence holder or his representative has sold goods, articles, processes, system or services, which bear a Standard Mark or any colourable imitation thereof, which do not conform to the relevant standard, the Bureau shall direct the certified body or licence holder or his representative to—

(a) repair or replace or reprocess the standard marked goods, article, process, system or service in a manner as may be specified; or

(b) pay compensation to the consumer as may be prescribed by the Bureau; or

(c) be liable for the injury caused by non-conforming goods or article, which bears a Standard Mark, as per the provisions of section 31.

CHAPTER IV

Finance, Accounts and Audit

19. *Financial Management of Bureau of Indian Standards.*— The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Bureau grants and loans of such sums of money as the Government may consider necessary.

20. *Fund of Bureau.*— (1) There shall be constituted a fund to be called the Bureau of Indian Standards fund and there shall be credited thereto—

(a) any grants and loans made to the Bureau by the Central Government;

(b) all fees and charges received by the Bureau under this Act;

(c) all fines received by the Bureau;

(d) all sums received by the Bureau from such other sources as may be decided upon by the Central Government.

(2) The fund shall be applied for meeting—

(a) the salary, allowances and other remuneration of the members, Director General, officers and other employees of the Bureau;

(b) expenses of the Bureau in the discharge of its functions under the Act; and

(c) expenses on objects and for purposes authorised by this Act:

Provided that the fines received in clause (c) of sub-section (1) shall be used for consumer awareness, consumer protection and promotion of quality of goods, articles, processes, system or services in the country.

21. *Borrowing powers of Bureau.*— (1) The Bureau may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by Bureau under sub-section (1).

22. *Budget.*— The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Bureau and forward the same to the Central Government.

23. *Annual report.*— (1) The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

(2) The Central Government shall cause the annual report to be laid, as soon as may be after it is received, before each House of Parliament.

24. *Accounts and audit.*— (1) The Bureau shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Bureau shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure

incurred in connection with such audit shall be payable by the Bureau to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Bureau shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any office of the Bureau.

(4) The accounts of the Bureau as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER V

Miscellaneous

25. *Power of Central Government to issue directions.*— (1) Without prejudice to the foregoing provisions of this Act, the Bureau shall, in the exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Bureau shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may take such other action as may be necessary for the promotion, monitoring and management of quality of goods, articles, processes, systems

and services and to protect the interests of consumers and various other stakeholders and notify any other goods, articles, processes, systems and services for the purpose of sub-section (1) of section 16.

26. Restriction on use of name of Bureau and Indian Standard.— (1) No person shall, with a view to deceive or likely to deceive the public, use without the previous permission of the Bureau,—

(a) any name which so nearly resembles the name of the Bureau as to deceive or likely to deceive the public or the name which contains the expression “Indian Standard” or any abbreviation thereof; or

(b) any title of any patent or mark or trade mark or design, in relation to any goods, article, process, system or service, containing the expressions “Indian Standard” or “Indian Standard Specification” or any abbreviation of such expressions.

(2) Notwithstanding anything contained in any law for the time being in force, no registering authority shall—

(a) register any company, firm or other body of persons which bears any name or mark; or

(b) register a trade mark or design which bears any name or mark; or

(c) grant a patent, in respect of an invention, which bears a title containing any name or mark,

if the use of such name or mark is in contravention of sub-section (1).

(3) If any question arises before a registering authority whether the use of any name or mark is in contravention of sub-section (1), the registering authority may refer the question to the Central Government whose decision thereon shall be final.

27. Appointment and powers of certification officers.— (1) The Bureau may appoint as

many certification officers as may be necessary for the purpose of inspection whether any goods, article, process, system or service in relation to which the Standard Mark has been used conforms to the relevant standard or whether the Standard Mark has been properly used in relation to any goods, article, process, system or service with or without licence, and for performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, a certification officer shall have power to—

(a) inspect any operation carried on in connection with any goods, article, process, system or service in relation to which the Standard Mark has been used; and

(b) take samples of any goods or article or of any material or substance used in any goods, article, process, system or service, in relation to which the Standard Mark has been used.

(3) Every certification officer shall be furnished by the Bureau with a certificate of appointment as a certification officer, and the certificate shall, on demand, be produced by the certification officer.

(4) Every certified body or licence holder shall—

(a) provide reasonable facilities to certification officer to enable him to discharge the duties imposed on him;

(b) inform certification officer or the Bureau of any change in the conditions which were declared or verified by the certification officer or the Bureau at the time of grant of certificate of conformity or licence.

(5) Any information obtained by a certification officer or the Bureau from any statement made or information supplied or any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing shall apply to the disclosure of any information for the purpose of prosecution and protection of interest of consumers.

28. *Power to search and seizure.*— (1) If the certification officer has reason to believe that any goods or articles, process, system or service in relation to which the contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17 has taken place are secreted in any place, premises or vehicle, he may enter into and search such place, premises or vehicle for such goods or articles, process, system or service, as the case may be.

(2) Where, as a result of any search made under sub-section (1), any goods or article, process, system or service has been found in relation to which contravention of section 11 or sub-section (6) or (8) of section 14 or section 15 or section 17 has taken place, the certification officer may seize such goods or article and other material and documents which, in his opinion will be useful for, or relevant to any proceeding under this Act:

Provided that where it is not practicable to seize any such goods or article or material or document, the certification officer may serve on the owner an order that he shall not remove, part with, or otherwise deal with, the goods or article or material or document except with the previous permission of the certification officer.

(3) The provision of the Code of Criminal Procedure, 1973, relating to 2 of 1974. searches and seizures shall, so far as may be, apply to every search or seizure made under this section.

29. *Penalty for contravention.*— (1) Any person who contravenes the provisions of section 11 of sub-section (1) of section 26 shall be punishable with fine which may extend to five lakh rupees.

(2) Any person who contravenes the provisions of sub-section (6) or (8) of section 14 or section 15 shall be punishable with

imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees, but may extend up to five times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark including Hallmark, or with both:

Provided that where the value of goods or articles produced or sold or offered to be sold cannot be determined, it shall be presumed that one year's production was in such contravention and the annual turnover in the previous financial year shall be taken as the value of goods or articles for such contravention.

(3) Any person who contravenes the provisions of section 17 shall be punishable with imprisonment for a term which may extend up to two years or with fine which shall not be less than two lakh rupees for the first contravention and not be less than five lakh rupees for the second and subsequent contraventions, but may extend up to ten times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark, including Hallmark, or with both:

Provided that where the value of goods or articles produced or sold or offered to be sold cannot be determined, it shall be presumed that one year's production was in such contravention and the annual turnover in the previous financial year shall be taken as the value of goods or articles for such contravention.

(4) The offence under sub-section (3) shall be cognizable.

30. *Offences by companies.*— Where an offence under this Act has been committed by a company, every director, manager, secretary or other officer of the company who, at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company, or authorised representative of

the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly, irrespective of the fact that the offence has been committed with or without the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, or authorised representative of the company.

Explanation.— For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

31. *Compensation for non-conforming goods.*— Where a holder of licence or certificate of conformity or his representative has sold any goods, article, process, system or service, which bears a Standard Mark not conforming to the relevant standard, or with colourable imitation, the certified body or licence holder or his representative shall be liable to compensate the consumer for the injury caused by such non-conforming goods, article, process, system or service in such manner as may be prescribed.

32. *Cognizance of offence by courts.*— (1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, specially empowered in this behalf, shall try any offence punishable under this Act.

(2) No court shall take cognizance of any offence punishable under this Act save on a complaint made by—

(a) or under the authority of the Bureau; or

(b) any police officer, not below the rank of deputy superintendent of police or equivalent; or

(c) any authority notified under sub-section (2) of section 16; or

(d) any officer empowered under the authority of the Government; or

(e) any consumer; or

(f) any association.

(3) Any police officer not below the rank of deputy superintendent of police or equivalent, may, if he is satisfied that any of the offences referred to in sub-section (3) of section 29 has been, is being, or is likely to be, committed, search and seize without warrant, the goods, die, block, machine, plate, other instruments or things involved in committing the offence, wherever found, and all the articles so seized shall, as soon as practicable, be produced before a Magistrate as prescribed under sub-section (1).

(4) The court may direct that any property in respect of which the contravention has taken place shall be forfeited to the Bureau.

(5) The court may direct that any fine, in whole or any part thereof, payable under the provisions of this Act, shall be payable to the Bureau.

33. *Compounding of offence.*— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by an officer so authorised by the Director General, in such manner as may be prescribed:

Provided that the sum so specified shall not in any case exceed the maximum amount of the fine which may be imposed under section 29 for the offence so compounded; and any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded shall be deemed to be an offence committed for the first time.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Bureau.

(3) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(4) Where any offence is compounded before the institution of any prosecution, no prosecution shall be institution in relation to such offence against the offender in relation to whom the offence is so compounded.

(5) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought to the notice of the court in which the prosecution is pending in writing by the officer referred to in sub-section (1), and on such notice of the composition of the offence being given and its acceptance by the court, the person against whom the offence is so compounded shall be discharged.

34. *Appeal.*— (1) Any person aggrieved by an order made under section 13 or sub-section (4) of section 14 or section 17 of this Act may prefer an appeal to Director General of the Bureau within such period as prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Director General that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(5) The Director General may *suo motu* or on an application made in the manner prescribed review the order passed by any officer to whom the power has been delegated by him.

(6) Any person aggrieved by an order made under sub-section (1) or sub-section (5) may prefer an appeal to the Central Government having administrative control of the Bureau within such period as may be prescribed.

35. *Members, officers, and employees of Bureau to be public servants.*— All members, officers and other employees of the Bureau shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

36. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any member, officer or other employee of the Bureau for anything which is done or intended to be done in good faith under this Act or the rules or regulations made thereunder.

37. *Authentication of orders and other instruments of Bureau.*— All orders and decisions of, and all other instruments issued by, the Bureau shall be authenticated by the signature of such officer or officers as may be authorised by the Bureau in this behalf.

38. *Power to make rules.*— The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

39. *Power to make regulations.*— The Executive Committee may, with the previous

approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules to carry out the purposes of this Act.

40. *Rules and regulations to be laid before Parliament.*— Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

41. *Act not to affect operation of certain Acts.*— Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marking) Act, 1937 or the Drugs and Cosmetics Act, 1940, or any other law for the time being in force, which deals with any standardisation or quality control of any goods, article, process, system or service.

42. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government

may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

43. *Repeal and savings.*— (1) The Bureau of Indian Standards Act, 1986 is hereby repealed.

63 of 1986.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have done or taken including any rule, regulation, notification, scheme, specification, Indian Standard, Standard Mark, inspection order or notice made, issued or adopted, or any appointment, or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or direction given or any proceedings taken or any penalty or fine imposed under the Act hereby repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

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